
HOUSE BILL 2771

State of Washington 57th Legislature 2002 Regular Session

By Representatives Reardon, Barlean, Cooper, Benson, Edwards and Ogden

Read first time 01/28/2002. Referred to Committee on Judiciary.

1 AN ACT Relating to condominium purchases; amending RCW 64.34.100,
2 64.34.450, and 64.34.452; and adding new sections to chapter 64.34 RCW.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 64.34 RCW
5 to read as follows:

6 If an agreement between a declarant and purchaser provides the
7 declarant with a right to notice of and the right to cure conditions
8 that are covered by any express or implied warranty of quality, the
9 commencement of any proceeding based on an alleged breach of a warranty
10 of quality shall be subject to the purchaser's or association's
11 compliance with a reasonable notice provision and acceptance of
12 reasonable measures by the declarant to cure the conditions.

13 NEW SECTION. **Sec. 2.** A new section is added to chapter 64.34 RCW
14 to read as follows:

15 Agreements entered into between a declarant and all of the original
16 purchasers of units in a condominium shall be binding upon the
17 association and subsequent purchasers.

1 **Sec. 3.** RCW 64.34.100 and 1989 c 43 s 1-113 are each amended to
2 read as follows:

3 (1) The remedies provided by this chapter shall be liberally
4 administered to the end that the aggrieved party is put in as good a
5 position as if the other party had fully performed. However,
6 consequential, special, or punitive damages may not be awarded except
7 as specifically provided in this chapter or by other rule of law.

8 (2) Any right or obligation declared by this chapter is enforceable
9 by judicial proceeding or by arbitration as provided for either in a
10 written agreement signed by the unit purchaser or in the declaration.

11 **Sec. 4.** RCW 64.34.450 and 1989 c 43 s 4-113 are each amended to
12 read as follows:

13 (1) Except as limited by subsection (2) of this section, implied
14 warranties of quality:

15 (a) May be excluded or modified by written agreement of the
16 parties; and

17 (b) Are excluded by written expression of disclaimer, such as "as
18 is," "with all faults," or other language which in common understanding
19 calls the buyer's attention to the exclusion of warranties.

20 (2) With respect to a purchaser of a unit that may be occupied for
21 residential use, ~~((no))~~ a general disclaimer, as described in
22 subsection (1)(b) of this section, of implied warranties of quality is
23 effective(, but a declarant and any dealer may disclaim liability in
24 an instrument signed by the purchaser for a specified defect or
25 specified failure to comply with applicable law, if the defect or
26 failure entered into and became a part of the basis of the bargain)) if
27 contained in an instrument signed by the buyer and the disclaimer was
28 entered into and became a part of the basis of the bargain. However,
29 to the extent that the disclaimer relates to structural elements of the
30 condominium or building code, provisions affecting life; safety,
31 including fire protection; or the habitability of the unit, the
32 disclaimer must specify the (a) defect, (b) failure to comply with
33 applicable law, or (c) aspect or category of construction affected by
34 the disclaimer.

35 **Sec. 5.** RCW 64.34.452 and 1990 c 166 s 14 are each amended to read
36 as follows:

1 (1) A judicial proceeding or arbitration for breach of any
2 obligations arising under RCW 64.34.443 and 64.34.445 must be commenced
3 within four years after the cause of action accrues(~~(:—PROVIDED,~~
4 ~~That))~~). However, the period for commencing an action for a breach
5 accruing pursuant to subsection (2)(b) of this section shall not expire
6 prior to one year after termination of the period of declarant control,
7 if any, under RCW 64.34.308(4). Such period may not be reduced by
8 either oral or written agreement.

9 (2) Subject to subsection (3) of this section, a cause of action or
10 breach of warranty of quality, regardless of the purchaser's lack of
11 knowledge of the breach, accrues:

12 (a) As to a unit, the date the purchaser to whom the warranty is
13 first made enters into possession if a possessory interest was conveyed
14 or the date of acceptance of the instrument of conveyance if a
15 nonpossessory interest was conveyed; and

16 (b) As to each common element, at the latest of (i) the date the
17 first unit in the condominium was conveyed to a bona fide purchaser,
18 (ii) the date the common element was completed, or (iii) the date the
19 common element was added to the condominium.

20 (3) If a warranty of quality explicitly extends to future
21 performance or duration of any improvement or component of the
22 condominium, the cause of action accrues at the time the breach is
23 discovered or at the end of the period for which the warranty
24 explicitly extends, whichever is earlier.

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